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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

JUL 29 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) CC Docket No. 95-116  
Telephone Number Portability )

**PETITION FOR RECONSIDERATION OF U S WEST, INC.**

**I. INTRODUCTION AND SUMMARY**

On May 12, 1998, the Federal Communications Commission ("FCC" or "Commission") issued its long-awaited LNP Cost Recovery Order.<sup>1</sup> For the most part, that Order articulates well-reasoned cost recovery principles associated with long-term number portability ("LNP") deployment. There are, however, two matters which U S WEST, Inc.<sup>2</sup> ("U S WEST") believes require reconsideration. Those matters involve an issue associated with the end-user surcharge (i.e., its application to PBX ("Private Branch Exchange") trunk subscribers) and one dealing

<sup>1</sup> In the Matter of Telephone Number Portability, CC Docket No. 95-116, RM 8535, Third Report and Order, FCC 98-82, rel. May 12, 1998 ("Order" or "LNP Cost Recovery Order").

<sup>2</sup> As a party to this proceeding, U S WEST, Inc. in connection with Commission Rule 1.21(a) provides the following information regarding a recently completed transaction. Prior to June 12, 1998, U S WEST, Inc. was the parent company of two operating groups, U S WEST Communications Group, which included the company's incumbent local exchange operations and U S WEST Media Group. On June 12, 1998, U S WEST, Inc. separated into two independent companies: the businesses of the Communications Group (as well as the domestic telephone directory business of Media Group) were contributed to a new corporation later renamed U S WEST, Inc., while the former U S WEST, Inc. was renamed MediaOne Group, Inc. and continues to conduct the remaining businesses of the Media Group. U S WEST, Inc. has no parent company and no non-wholly owned subsidiary.

with query charges (i.e., the ability to recover overheads with respect to this "new service").

First, U S WEST seeks reconsideration of the Commission's determination that carriers establishing a levelized end-user surcharge should plan on charging PBX-trunk subscribers nine end-user number portability charges, so as to create an equality with number portability surcharges imposed on Centrex subscribers. Such was not the advocacy of the Large LEC Coalition (of which U S WEST was a member),<sup>3</sup> which advocacy itself was based on prior regulatory resolutions regarding the allocation of charges between Centrex and PBX trunk subscribers set to minimize the competitive impact of the allocation and assessment. Because the current regulatory approach cannot be reconciled with that articulated in the Access Charge Reform Proceeding,<sup>4</sup> U S WEST requests reconsideration of the matter.

Second, U S WEST asks that the Commission reconsider its rule that prohibits carriers from incorporating general overheads into the costs utilized in

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<sup>3</sup> See Letter from Marie T. Breslin, Director, Government Relations-FCC, Bell Atlantic, to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, filed Apr. 27, 1998, on behalf of the large LEC LNP Coalition (excluding Ameritech) ("Large LEC Coalition 4/27 *Ex Parte*"). See also Letter from Elridge Stafford, Executive Director, Federal Regulatory, to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, filed Feb. 24, 1998 at Attachment ("U S WEST's Local Number Portability Cost Recovery Recommendations") ("U S WEST 2/24 *Ex Parte*").

<sup>4</sup> In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Second Order on Reconsideration and Memorandum Opinion and Order, 12 FCC Rcd. 16606 (1997) (referred to collectively as "Access Charge Reform Proceeding").

establishing the appropriate price for query charges.<sup>5</sup> Whatever the propriety of prohibiting the inclusion of general overheads in the end-user surcharge,<sup>6</sup> there is no logical reason to prohibit the inclusion of such overheads in the query charge which incorporates aspects of any routinely tariffed LEC "new service,"<sup>7</sup> which generally incorporates such overheads.

## II. MATTERS FOR RECONSIDERATION

### A. PBX LNP Surcharges Should Be Reconsidered

As a part of an industry Coalition addressing LNP cost-recovery issues, U S WEST addressed how an end-user surcharge would be applied to Centrex and in reference to PBX trunk services.<sup>8</sup> The Coalition advocated that the

FCC should . . . permit the LNP per-line, per-month federal surcharge to be calculated for Centrex and PRI ISDN customers based upon the 9:1 trunk equivalency ratio for Centrex and the 5:1 ratio for PRI ISDN. These were the ratios the Commission directed the incumbent LECs to use in determining [Subscriber Line Charges] SLCs and [Presubscribed Interexchange Carrier Charges] PICCs they would charge subscribers to those services. Not to use these ratios for calculating LNP surcharges would represent a reversal of prior Commission policy established to ensure equity in cost recovery among multi-line business services.

The advocacy of the Coalition was based on prior carrier advocacy in the Access Charge Reform Proceeding, which addressed the manner in which non-cost-

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<sup>5</sup> LNP Cost Recovery Order, at Appendix B, Rule 52.33(a)(2).

<sup>6</sup> U S WEST is aware that certain local exchange carriers ("LEC") deem this Commission decision inappropriate and may well ask the Commission to reconsider its position.

<sup>7</sup> 47 CFR § 61.3(t) (which defines a "new service offering" as a "tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved that enlarges the range of service options available to ratepayers").

<sup>8</sup> Large LEC Coalition 4/27 *Ex Parte* at 1.

based charges would be allocated and imposed on services that were basically cross-elastic, e.g., Centrex and PBX trunks. The resolution the Commission reached there with respect to Centrex services and "similarly sized PBX arrangements" was to adopt a 9:1 ratio, which was meant to represent the approximate number of stations that may be served from a typical PBX trunk (9) as compared to a single Centrex line (1).<sup>9</sup> The Commission adopted a "line equivalency ratio" whereby the PBX trunk subscribers were charged only once for every assumed 9 PBX stations, and it was assumed that a PBX station was equivalent to a single Centrex access line. The end result was that the Centrex customer was to be charged 1/9<sup>th</sup> of the PBX trunk subscriber PICC.

While the Commission here has sought to create a similar type of "equivalency" between Centrex and PBX trunk subscribers, it has turned the Centrex/PBX trunk 9:1 ratio on its head in the current LNP end-user surcharge context. That is, rather than treating the PBX trunk as a single unit, allowing for an end-user surcharge to a Centrex subscriber of 1/9<sup>th</sup> that amount, the Commission has treated the Centrex subscriber as the unit (i.e., "line") of reference, multiplying the liability of the PBX customer by 9.<sup>10</sup>

This approach cannot be sustained given its deviation from the Access Charge Reform Proceeding approach, which also involved the recovery of amounts where there was no direct cost-causation/cost recovery correlation and where the

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<sup>9</sup> As the FCC here paraphrases the finding, "a PBX trunk provides on average the equivalent service capacity of nine Centrex lines." LNP Cost Recovery Order ¶ 145.

<sup>10</sup> Id. (allowing LECs "to assess one monthly number-portability charge per line,

crux of the FCC's cost recovery prescription involved cost allocation determinations. Furthermore, given the nature of the current costing/price of PBX trunks as well as the fierce competition for their business, the Commission's current surcharge determination is bad as a matter of policy. Such an approach will undoubtedly drive PBX customers away from LECs. The Commission has put the LECs in the position where they face something of a Hobson's choice: forego cost recovery or irritate the PBX-trunk subscriber one more time by adding another charge to the subscriber's bill for another "new and improved" telecommunications environment.

While the Commission's approach to the PBX/Centrex matter suggests that the surcharges that would be imposed on the PBX customer are cost-based, such is not necessarily the case. In the LNP context, the Commission's grant to carriers to set and collect end-user surcharges undeniably involves more the art of cost allocation than the science of direct cost-causer/cost recovery. The issue, then, is how one allocates the costs across a line or a trunk. Put another way, U S WEST's LNP costs do not double -- let alone amount to 9 times as much -- for a PBX trunk subscriber than for a Centrex customer.<sup>11</sup>

Burdening a PBX customer with such a surcharge structure would result in a percentage increase in rates for that PBX customer in excess of the percentage increase in rates associated with the Centrex customer. PBX-trunk charges are already set substantially above cost, due to legacy state pricing policies which

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except that one PBX trunk shall receive nine monthly . . . charges").

<sup>11</sup> The main cost driver for LNP is switching modifications, not the number of lines or telephone numbers associated with a particular subscriber.

overprice business services to allow for lower prices for residential services. And, PBX customers may actually generate less cost on a per line basis than a typical customer. Because many PBX customers route their long distance traffic directly to an interexchange carrier ("IXC"), such customers bypass LEC switches and signaling networks. Thus, for many PBX customers, carriers incur no costs for the customer's originating long-distance traffic.

Thus, loading additional telecommunications cost recovery charges onto PBX customers poses substantial risks to LECs that such customers will leave them and go to competitors, simply to avoid the continuing irritation of being a "deep pocket" for recovery of "costs" that may or may not actually exist.<sup>12</sup> As U S WEST advised the Commission some time ago, recovery mechanisms that result in ever-increasing charges being imposed on the bills of multi-line business customers cause them to go searching for alternatives.<sup>13</sup> This "search" deprives LECs not only of a profitable

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<sup>12</sup> The fact that a LEC -- such as U S WEST -- will have to specifically identify the LNP surcharge (while others do not) will mean that its PBX trunk customers will undoubtedly look around for a better deal -- a deal that will involve less "sticker shock" due to the cost recovery flexibility allowed to non-LECs. Carriers that can mask the cost recovery through general price restructuring or package offerings stand a far greater chance of meeting the customers' expectations than do incumbent LECs who are driven to identifiable surcharge types of cost-recovery.

<sup>13</sup> In comments to the Commission back in 1997, U S WEST noted the existence of this phenomena in a subsidy-collection environment. See Comments and Opposition of U S WEST, Inc., filed Aug. 18, 1997 at 15 ("Multi-line business customers have long had more telecommunications choices than smaller customers, and the SLC increase assessed on these lines has already prompted multi-line business users to begin contemplating competitive options to avoid the new subsidy."), in In the Matter of Access Charge Reform, CC Docket No. 96-262; Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Transport Rate Structure and Pricing, CC Docket No. 92-213; End User Common Line Charges, CC Docket No. 95-72 (referred to collectively as "Access

customer relationship but a source of ongoing cost recovery.<sup>14</sup> Thus, the "cost" on which the levelized end-user surcharge was calculated remains, but the LEC no longer has an available "end user" to pay.

It seems obvious that cost recovery methodologies that unduly or inappropriately burden multi-line customers actually operate to unlevelize any "level playing field" that other competitive initiatives might hope to promote. For this reason, such costing methodologies should no longer be imposed by regulatory fiat operating without regard to the significant competitive consequences associated with the application of such methodologies.

For the above reasons, the Commission should reconsider its prescriptive approach to PBX trunk surcharge recovery. Instead the Commission should allow LECs the flexibility to establish a reasonable assignment of costs to these services. Alternatively, the Commission should permit LECs to assign 1 surcharge for each PBX trunk, with the Centrex subscriber surcharges being reduced correlatively (similar to the Access Charge Reform Proceeding approach).

B. Overhead Loadings Should Be Allowed In Query Charges

The Commission addresses the matter of overhead loadings, and their general recovery, in that portion of the LNP Cost Recovery Order addressing the

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Reform/EUCL Proceeding").

<sup>14</sup> See U S WEST, Inc. Reply to Oppositions to Petition for Partial Stay Pending Judicial Review, filed Sep. 22, 1997 at 5 ("Once U S WEST's customers have shifted traffic to carriers . . . in order to avoid the [imposition of a charge,] it will be extremely difficult for U S WEST to recapture these customers, and it will be absolutely impossible for U S WEST to recoup its lost revenues.") in the Access Reform/EUCL Proceeding.

categorization of costs, specifically “carrier-specific costs.”<sup>15</sup> In that discussion, the Commission defines carrier-specific costs to exclude general overhead loading factors, speculating that to allow such overheads to be included in LNP cost-recovery models “might lead to double recovery.”<sup>16</sup>

The two methods the Commission allows for LECs to recover LNP-related costs are end-user surcharges and query charges. Whatever is the propriety of excluding the recovery of general overheads from the end-user surcharge, the Commission’s exclusion of such overheads from the query charge cost recovery design is in error. The Commission should allow the recovery of such overheads because the query charge tariff is no less a “new service” than any other routine LEC service, all of which are permitted to include general overheads.<sup>17</sup>

It is not clear that the Commission actually meant to preclude such recovery.<sup>18</sup> It is clear, however, that the way the current query-service charge recovery rule is written precludes such recovery.<sup>19</sup> Because there is no articulation as to how a double cost recovery could occur should a LEC be permitted to

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<sup>15</sup> LNP Cost Recovery Order ¶ 74.

<sup>16</sup> Id.

<sup>17</sup> Compare In the Matter of Expanded Interconnection with Local Telephone Company Facilities, Amendment of the Part 69 Allocation of General Support Facility Costs, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd. 7369, 7429 n.291 (1992).

<sup>18</sup> Indeed, the Commission discusses the fact that originally it conceived of the query charge matter as involving a “shared cost” because it assumed that the query function would be performed by the regional administrators. Id. ¶ 71. Since “the industry ha[d] chosen . . . not to adopt [that] approach,” however, the FCC held that “query costs are more appropriately considered carrier-specific costs.” Id.

<sup>19</sup> See Rule 52.33(a)(2).



incorporate overhead loadings into its tariffed query charge, the Commission should reconsider its position. It should allow the inclusion of general overhead loadings, as it would with respect to any other LEC-tariffed new service, in addition to the LNP "carrier-specific costs" also incorporated into the query charge.

### III. CONCLUSION

For all the above reasons, the Commission should grant U S WEST's Petition for Reconsideration.

Respectfully submitted,

U S WEST, INC.

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July 29, 1998

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## CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 29<sup>th</sup> day of July, 1998, I have caused a copy of the foregoing **PETITION FOR RECONSIDERATION OF U S WEST, INC.** to be served, via hand delivery, upon the persons listed on the attached service list.

  
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